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5

Attorneys for Specially Appearing for

6 Third-Party Defendants, ASIA PACIFIC OIL &

GAS LTD., a Seychelles Islands entity,

7 AMIRZHAN JAKISHEV, and ADILZHAN DZHAKISHEV

8

UNITED STATES DISTRICT COURT

9

CENTRAL DISTRICT OF CALIFORNIA

10

11 KAZENERCOM TOO; ET AL.,

) CASE NO. 08:09cv00059-JVS

12

Plaintiffs,

) Assigned for All Purposes to:

13

v.

) Hon. James V. Selna

) Dept: 10C

14

TURAN PETROLEUM, INC.; ET AL.,

15

Defendants.

) Date Action Filed: January 14, 2009

) Trial Date: None Set

16

TURAN PETROLEUM, INC.,

17

Defendant and Counterclaimant,

) **DECLARATION OF PAUL A. HOFFMAN,**

) **ESQ., IN SUPPORT OF THIRD-PARTY**

18

v.

) **DEFENDANTS' MOTION TO DISMISS**

) **AMENDED THIRD-PARTY COMPLAINT**

19

YERKIN BEKTAYEV and KANET  
MEIRMANOV,

20

Plaintiffs and Counterdefendant.

) [Filed concurrently with: [Proposed] Order;

) Motion to Dismiss; Declarations of Adilzhan

) Dzhakishev and Amirzhan Jakishev]

21

TURAN PETROLEUM, INC.,

22

Defendant and Third-Party Plaintiff,

) Date: August 31, 2009

) Time: 1:30 p.m.

23

v.

) Courtroom: 10C

24

WELLS FARGO, N.A., YERKIN AKKUZOV,  
25 SABIRGAN DUHALIEV, IGOR MAXIMOV,

26

Defendants in Third-Party Complaint.

27

YERKIN BEKTAYEV and KANET  
28 MEIRMANOV,

1

**DECLARATION OF PAUL A. HOFFMAN, ESQ. IN SUPPORT OF  
MOTION TO DISMISS AMENDED THIRD-PARTY COMPLAINT**

1 Counterdefendants and Third-Party )  
2 Plaintiffs, )  
3 v. )  
4 ASIA PACIFIC OIL & GAS LTD. (incorporated )  
5 in the Seychells Islands); AMIRGAN )  
6 DZHAKISHEV, ADILZHAN DZHAKISHEV, )  
7 YURI VANETIK; ROBERT VAN DUREN; )  
8 ROBIN BISARYA; OKKE FINANCIAL LTD.; )  
9 ALCINA COMPANY CORP., PINGTON )  
10 INVESTMENT LTD.; PINE BROOK S.A., )  
11 HINES INVESTMENTS S.A.; ESSEX )  
12 MANAGERS LTD.; VARRIAL FINANCIAL )  
13 TRADING LTD.; COAST FINANCE LTD.; )  
14 FREEMAN FREEMAN SMILEY LLP, )  
15 Third-Party Defendants. )  
16 \_\_\_\_\_ )

17 I, Paul A. Hoffman, declare:

18 1. I am an attorney duly licensed to practice law before all of the courts of the  
19 State of California and before the United States District Court for the Central District of  
20 California. I am a principal of Greenwald & Hoffman, LLP, attorneys for third party  
21 defendants Asia Pacific Oil & Gas LLP, Adilzhan Dzhakishev, and Amirzhan Jakishev in  
22 the above-entitled matter. I make this declaration based on my own knowledge and, if  
23 called as a witness, could and would testify competently to the matters stated herein.

24 2. On July 16, 2009, I met and conferred by telephone with Alina Sorkin, Esq.,  
25 counsel for Third Party Plaintiffs, Yerkin Bektayev and Kanet Meirmanov, in the above-  
26 entitled action. At that time I explained the basis for the present Rule 12(b) motion to  
27 dismiss, including the insufficiency of service of process on my clients in this case. A true  
28 and correct copy of my July 16, 2009, letter to Ms. Sorkin is attached hereto as **Exhibit 7**.  
When we discussed the insufficient service on my clients of the Verified Amended Third  
Party Complaint and asked whether she would be re-serving the same on my clients, Ms.

1 Sorkin said she would not. She has not attempted to correct the deficient service on my  
2 clients by employing one of the methods authorized by Fed.R.Civ.P. 4(f).

3 I declare under penalty of perjury under the laws of the State of California and the United  
4 States of America that the foregoing is true and correct, and that this Declaration was executed on  
5 this 16th day of July, 2009, at Santa Ana, California.  
6

7   
8 PAUL A. HOFFMAN

GREENWALD & HOFFMAN, LLP

ATTORNEYS AT LAW

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July 16, 2009

Via First Class Mail; Facsimile (949) 502-0274;  
and email [alinasorkin@yahoo.com](mailto:alinasorkin@yahoo.com)

Alina Sorkin, Esq.  
Sorkin Law Group, APLC  
16485 Laguna Canyon Rd Ste 230  
Irvine, CA 92618

Re: Yerkin Bektayev, Kanet Meirmanov vs. Asian Pacific Oil,  
et.al. United States District Court Central District of California  
Case No. SA-CV-09-00059 JVS (MLGX)

Dear Alina:

This office specially represents the third-party defendants, Asia Pacific Oil & Gas Ltd. (erroneously sued as Asian Pacific Oil & Gas Ltd.), Adilzhan Dzhakishev (erroneously sued as Adilgan Dzhakishev), and Amirzhan Jakishev (erroneously sued as Amirgan Dzhakishev), in the above-referenced matter.

This letter confirms our efforts to meet and confer regarding a motion to dismiss that my clients intend to file in this case, pursuant to Local Rule 7-3 and FRCP Rule 12(b). In our telephone conversation today, I explained to you that my firm will specially appear by way of a Rule 12(b) motion to dismiss based upon the following grounds:

- 1) Insufficient service on my clients because the proof of service states they were served by mail at a residence where they do not reside, so they were never properly served with the third-party complaint. (Fed. R. Civ. Proc. 12(b)(5).) I asked you to re-serve them properly if you wish to maintain a lawsuit against them, but you refused.
- 2) Lack of personal jurisdiction over my clients in California courts because they are not California residents or citizens and they do not maintain minimal contacts with California that would justify haling them into court here. (Fed. R. Civ. Proc. 12(b)(2).) You disagreed with my clients' claim of lack of personal jurisdiction.

EXHIBIT 7

**GREENWALD & HOFFMAN, LLP**  
ATTORNEYS AT LAW

- 3) Failure to state of claim upon which relief may be granted because the third-party complaint does not contain any allegations against my clients sufficient to state a cause of action. (Fed. R. Civ. P. 12(b)(6).) Specifically, I told you there are no substantive allegations, for instance, to support a claim of securities fraud or for any of the Counts 1 through 6 against my clients. Initially, you conceded in our telephone conversation that the only facts you were aware of against my clients involved fraudulent transfer. But when I asked you to agree to withdraw Counts 1 through 6 against my clients, for lack of any factual allegations to support those claims, you refused.
- 4) Lack of subject matter jurisdiction because, once the federal securities claim drops out, there is no federal question or diversity jurisdiction upon which to base the pendent state claims. (Fed. R. Civ. Proc. 12(b)(1); 28 U.S.C. Sec. 1367(c).) Again, you disagreed, and refused to withdraw any claims or parties from this case.

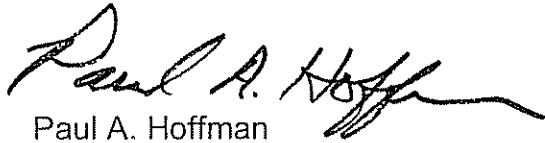
Additionally, we discussed the possibility that your failure to voluntarily dismiss my clients from this lawsuit may subject you and/or your clients to Rule 11 sanctions.

Please contact me immediately if you wish to further discuss these matters, or, in the alternative, please send me a voluntary dismissal as to each of my clients.

Thank you.

Very truly yours,

GREENWALD & HOFFMAN, LLP

  
Paul A. Hoffman

cc: Paul E. Greenwald, Esq.  
clients

EXHIBIT 7